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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 TED EUGENE LAYTON,) Case No. 10-cv-02380-JAH-WMC
12 Plaintiff,)
13 vs.)
14 PFIZER, INC.,) (1) DEFENDANT PFIZER INC.'S
15 Defendant.) NOTICE OF MOTION AND MOTION
) TO DISMISS; and
) (2) SUPPORTING MEMORANDUM
) OF POINTS AND AUTHORITIES
) (Filed Under Separate Cover)
16) Date: February 14, 2011
17) Time: 2:30 pm
18) Judge: John A. Houston
) Crtrm.:11

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NOTICE OF MOTION AND MOTION

TO PLAINTIFF:

PLEASE TAKE NOTICE THAT on February 14, 2011, at 2:30 pm, in the courtroom of the Honorable John A. Houston located at 880 Front Street, Courtroom 11, San Diego, CA 92101, Defendant Pfizer Inc (“Pfizer”) shall, and hereby does, move this Court pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss Plaintiff Ted Eugene Layton’s Complaint for failure to state a claim upon which relief may be granted. The grounds for this motion are that Plaintiff’s claim for negligent failure to warn fails to state facts sufficient to constitute a cause of action

This motion is based on this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the pleadings and papers filed in this action, and such other matters as may be presented to the Court before or at the time of the hearing.

Dated: November 29, 2010

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By:

Darrel J. Hieber

Attorneys for Defendant Pfizer Inc

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071

On November 29, 2010, I served the foregoing documents described as:

**(1) DEFENDANT PFIZER INC.'S NOTICE OF MOTION AND MOTION TO DISMISS;
and**

(2) SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

on the interested party in this action by placing true copies thereon enclosed in a sealed envelope addressed as follows:

Ted Eugene Layton
616 Maple Ave.
Holtville, CA 92250

(BY MAIL) I am readily familiar with the firm's practice for the collection and processing of correspondence for mailing with the United States Postal Service and the fact that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business; on this date, the above-referenced correspondence was placed for deposit at Los Angeles, California and placed for collection and mailing following ordinary business practices.

Executed on November 29, 2010, at Los Angeles, California.

Eunice L. Bautista
PRINT NAME

SIGNATURE